761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: December 23, 2009

OFFICE CORRESPONDENCE

FILE NO. SH2240121-FO2253202

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
DEPUTY EDUARDO LABAYNA #[redacted]
WEST HOLLYWOOD STATION

West Hollywood Station Deputy Eduardo Labayna shot at Suspect Stuart Bird, missing him, when he fled in his Mercedes Benz while dragging Deputy Randall Slate along the driver's side of the car from the location of a traffic stop.

Deputy Randall Slate and his partner, Eduardo Labayna, conducted a traffic stop of a green 2003 Mercedes Benz station wagon with paper placards (i.e., no license plates), on Mansfield Avenue, just south of Santa Monica Boulevard. The driver and sole occupant (later identified as Suspect Bird) did not have a driver's license in his possession, but provided his name and a birth date to Deputy Slate. Suspect Bird also handed Deputy Slate a temporary registration slip from the car's windshield.

Deputy Slate checked information via his Mobile Digital Terminal (MDT) and located an outstanding $30,000 arrest warrant for a narcotics violation for a similarly described person. Deputy Slate returned to Suspect Bird's car to speak with him about further identifying himself. When he provided information about his middle name that matched that of the warrant, Deputy Slate asked Suspect Bird to step out from his car. Instead, Suspect Bird started the car, and Deputy Slate tried to pull the door-lock button up to unlock the door. Suspect Bird grabbed Deputy Slate's right arm and began to drive away. Deputy Slate used his left hand and tried to strike Suspect Bird with his flashlight.

Deputy Labayna, seeing his partner being dragged down the street along the driver's side of Suspect Bird's car, fired four rounds from his Department-authorized .45 caliber pistol at the suspect (and the rear of the vehicle). This apparently caused Suspect Bird to release his grip on Deputy Slate, who fell to the ground after being dragged about 30 feet and had sustained head and arm abrasions. Deputy Slate dropped his flashlight in the suspect's car as it fled.

Suspect Bird continued driving away and was last seen westbound on Romaine Street.

Both deputies identified Suspect Bird from a photographic show-up. With the assistance of the Major Crimes Bureau's Fugitive Task Force, Suspect Bird was located and arrested later at night on March 19, 2009.

Deputy Slate was treated at Olympia Medical Center for head and arm abrasions and was released.

On December 10, 2009, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Eduardo Labayna #[redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by [redacted] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

The Committee directs the unit commander to send Deputy Eduardo Labayna #[redacted] and [redacted] to eight hours of Tactics and Survival Training as part of the Continuing Professional Training (CPT) curriculum and a debriefing, documented by the Tactics and Survival Training Unit. The APIS Roster of the training attended and the documentation of the debriefing must be returned.

Eric B. Smith, Commander

EBS:YLW/ylw

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MISCELLANEOUS DOCUMENTS

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 09-23-09	Bureau/Station/Facility: F.O.R. II / WHD	Admin. Invest.? ☐	Hit? ☐

Incident Information

URN: 009-01692-0999-057	Date: 03-19-09 Time: 0110 hours
City or Station: Los Angeles	Nature of Incident: Two-man unit conducting a vehicle traffic stop on suspect. As Deputy Slate was attempting to open the driver's door, suspect grabbed onto Slate's arm holding it as he drove away. Fearing serious injury to Slate, Deputy Labayna fired four rounds at suspect, missing him. Suspect drove away and was later arrested.
Location: 1041 Mansfield Avenue	

Location Type (*circle one or more*): Backyard, Beach, **Business** (circled), Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, **Street** (circled), Other: ____

Lighting (*circle only one*): Darkness, Daylight, Other, **Street Lights** (circled)

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance:

Incident Type (*circle one or more*): Accidental, Armed Person, **Fleeing Suspect** (circled), Foot Pursuit, Gun Take Away, **Moving Vehicle** (circled), Sniper/Ambush, Startle, **Struggle Involved** (circled), **Traffic Stop** (circled), Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ____

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, One Person Unit, Other, Search Warrant, **Two Person Unit** (circled)

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol** (circled)

Aero Unit? ☐ Canine Unit? ☐

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
4	none

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Slate	Randall	B.	**EM** (circled) PM Day	**Regular** (circled) Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	City	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	Aloma	Sergio	A.	**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting
[redacted]	Petrocelli	Sandra	L.	**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	[redacted]	[redacted]	[redacted]

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Del Mese	Lawrence	E.

PSTD Use Only
SH # 2240121

Officer Involved Shooting

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
03-19-09	0315	09-23-09	

Employee #	Last Name	First Name	M.I
[redacted]	Kusch	Roderick	A.
[redacted]	Grote	Dinah	L.
[redacted]	Haynes	Laura	L.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	SW	45	Y	Y	NN	

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 009-01692-0999-057

Involved Employee

E 1

Employee # [redacted]	Last Name Labayna		First Name Eduardo	M.I. Y.
Sex: M Race: F	Rank B-1 Deputy	Unit Assignment: WHD	Work Assignment (Unit #, Module, etc.): 92B	
ShiftTime (*circle only one*): (EM) PM Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:	
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #	Interviewed? ☒
Hrs of sleep prior to shooting: 7-8 hours	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / (Uniform w/ Vest)	Other Factors:	
Age: [redacted] Height: 5' 00	Weight: 140			
Range Qualification Date: [redacted]		PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? ☒	Number of Prior Shootings: 1 / Directed Force: [redacted]
Weapons Fired Brand: S&W	Caliber .45	# Shots 4	Weapons Fired Brand:	Caliber / # Shots
Field Training Officer Emp # [redacted]	Last Name [redacted]		First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]		First Name [redacted]	M.I. [redacted]

E__

Employee #	Last Name		First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):	
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:	
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #	Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:	
Age: Height:	Weight:			
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐	Number of Prior Shootings: / Directed Force: ☐
Weapons Fired Brand:	Caliber	# Shots	Weapons Fired Brand:	Caliber / # Shots
Field Training Officer Emp #	Last Name		First Name	M.I.
Field Training Officer Emp #	Last Name		First Name	M.I.

E__

Employee #	Last Name		First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):	
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:	
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #	Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors:	
Age: Height:	Weight:			
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐	Number of Prior Shootings: / Directed Force: ☐
Weapons Fired Brand	Caliber	# Shots	Weapons Fired Brand	Caliber / # Shots
Field Training Officer Emp #	Last Name		First Name	M.I.
Field Training Officer Emp #	Last Name		First Name	M.I.

Officer Involved Shooting
Suspect Information

URN: 009-01692-0999-057

Suspect Information

S 1

Last Name: Bird	First Name: Stuart	M.I.: R.
AKA Last Name: Porter	First Name: Steven	M.I.:
Sex: M Race: W	Street Address: [redacted]	City: [redacted] State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted] Driver's License #: [redacted]
Age: 54 D.O.B. 07-27-54	Height: 6' 00 Weight: 170	FBI #: [redacted] CII #: [redacted]
Booking #: 1843669	Primary Charge: 245(c) P.C.	Secondary Charge: 69 P.C.
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐ Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐ Criminal History? [redacted]
Vehicle Make: Mercedes Benz	Model: SW	Year: 1998

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:
Sex: Race:	Street Address:	City: State & Zip Code:
Work Phone:	Home Phone:	Social Security #: Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #: CII #:
Booking #:	Primary Charge:	Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐ Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐ Criminal History? ☐
Vehicle Make:	Model:	Year:

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:
Sex: Race:	Street Address:	City: State & Zip Code:
Work Phone:	Home Phone:	Social Security #: Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #: CII #:
Booking #:	Primary Charge:	Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐ Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐ Criminal History? ☐
Vehicle Make:	Model:	Year:

S__

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:
Sex: Race:	Street Address:	City: State & Zip Code:
Work Phone:	Home Phone:	Social Security #: Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #: CII #:
Booking #:	Primary Charge:	Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐ Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐ Criminal History? ☐
Vehicle Make:	Model:	Year:

See Other Side

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
DEPUTY INVOLVED SHOOTING (NON-HIT)
IAB #SH2240121 and #FO2253202

URN:	009-01962-0999-011
DATE / TIME:	Thursday, March 19, 2009, 0110 hours
LOCATION:	1041 Mansfield Avenue, Los Angeles, California
SUSPECT:	Stuart Rutherford Bird, MW/54, Booking #1843669
PERSONNEL:	Deputy Randall Slate, #[redacted] Unit 92B, EM's
	Deputy Eduardo Labayna, #[redacted] Unit 92B, EM's

On March 19, 2009, the Internal Affairs Bureau's Force and Shooting Response Team responded to the City of Los Angeles, near the West Hollywood Station area, regarding a deputy involved, non-hit shooting. The team consisted of Lieutenant Roderick Kusch and Sergeants Dinah Grote and Laura Haynes. Attorney Angelica Arias of the Office of Independent Review also responded.

> **IAB NOTE:** IAB Lieutenant Rod Kusch checked to see that the watch commander, Lieutenant Lawrence Del Mese, took reasonable steps to ensure that the involved and witness personnel did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, and that the involved and witness personnel did not collectively consult with their attorney or representative. In addition, IAB Lieutenant Kusch checked to see if the watch commander attempted to have involved and witness personnel gather in the company of a supervisor ([redacted] until they have provided a statement to the assigned investigators.

When the team arrived at the location there was an active command post and containment of the area for the outstanding suspect who fled the location in his vehicle. Investigators learned that the series of events which occurred, culminated into a deputy involved, non-hit shooting involving Deputies Randall Slate and Eduardo Labayna. The personnel involved in the incident are uniformed patrol deputies working a two-person unit.

During the incident, Deputy Randall Slate sustained minor abrasions and contusions to the right side of his forehead and right wrist. He was treated by medical staff from the Olympia Medical Center and released to light-duty status pending a follow-up visit. It was later discovered that Deputy Slate remained off work due to a fractured wright wrist. He returned back to full duty work status on May 13, 2009.

SYNOPSIS:

On March 19, 2009, at approximately 0110 hours, Deputies Randall Slate (driver) and Eduardo Labayna (book-person) were working a two-person unit. They were traveling eastbound on Santa Monica Boulevard from La Brea Avenue when they observed a green Mercedes Benz station wagon traveling eastbound on Santa Monica Boulevard in front of them, driving with dealer paper placards.

Deputy Slate followed the vehicle eastbound on Santa Monica Boulevard and initiated the patrol car's overhead red lights to conduct a traffic stop regarding the no license plate violation. He also used the Public Address (PA) system on his patrol car and directed the driver, Suspect Stuart Bird, to turn southbound on Mansfield Avenue due to the traffic concerns on Santa Monica Boulevard. The suspect turned his vehicle southbound onto Mansfield Avenue and came to a stop south of Santa Monica Boulevard.

Deputy Slate stopped the patrol car behind the suspect vehicle and approached the driver and sole occupant of the occupant of the vehicle, Suspect Bird. Deputy Labayna covered Deputy Slate from the right side of the suspect vehicle on the sidewalk. Deputy Slate noted the vehicle's back and side windows were tinted. He made contact with Suspect Bird and asked for the vehicle registration. Suspect Bird told Deputy Slate the vehicle was purchased a month prior to the traffic stop and he had not yet received new license plates from the Department of Motor Vehicles.

Deputy Slate was given a copy of the vehicle's temporary registration form and he saw the owner's name was a female. Deputy Slate was told by Suspect Bird the registered female owner was his [redacted] He asked Suspect Bird for his driver's license. Suspect Bird searched through his wallet. Not locating his license, Suspect Bird provided Deputy Slate his name, along with a business card. Deputy Slate asked Suspect Bird his date of birth and his address. In his contact with Suspect Bird, Deputy Slate noted the suspect was nervous as he returned to his patrol vehicle and entered Suspect Bird's personal information into the computer's "Want" system via the Mobil Digital Terminal.

Deputy Labayna continued to cover the suspect vehicle after Deputy Slate was at the patrol car. Deputy Labayna then walked back to the patrol vehicle and was advised by Deputy Slate that a $30,000 warrant out of Beverly Hills Court came back to the suspect's name. The date of birth was off on the year, but matched on the month and date. Deputy Slate advised Deputy Labayna that he believed the warrant belonged to the suspect and he was going to effect the arrest.

Deputy Slate re-contacted Suspect Bird as Deputy Labayna stood on the sidewalk on the right side of the suspect vehicle. Deputy Slate confirmed the middle name and address of Suspect Bird which matched that for the warrant. Convinced the warrant belonged to Suspect Bird, and wanting to affect the arrest, Deputy Slate told Suspect Bird to exit his vehicle. Hearing the conversation and knowing that Deputy Slate was now going to arrest the suspect, Deputy Labayna started walking around the vehicle's rear bumper to assist in the arrest.

Deputy Slate noted the suspect appeared to get nervous and started to fidget, so Deputy Slate reached down to grab the outer door handle. When he did this, Suspect Bird reached over and grabbed Deputy Slate's right hand and pulled it into the vehicle all the way to Deputy Slate's elbow area while putting the vehicle into gear. Deputy Slate was unable to free his hand/arm from Suspect Bird's grasp and believed he was going to be run over by the suspect as he was hobbling along the side of the driver's side door.

Deputy Labayna had just rounded the driver's side rear bumper when he heard the car start up. He hurried to Deputy Slate's side and saw Deputy Slate moving with the vehicle. Deputy Labayna tapped Slate's shoulder, telling him to let go of the moving vehicle. Deputy Slate, who was trying to pull away from the suspect's grasp, told Deputy Labayna that the suspect was holding onto him and that he (Suspect Bird) would not let go of him as the vehicle continued to accelerate forward with Deputy Slate being pulled along.

As the vehicle began moving southbound on Mansfield Avenue, Deputy Slate, who was holding his flashlight in his left hand, struck the suspect's chest area approximately two to three times as Suspect Bird continued to hold onto his arm, while Deputy Slate had to "gallop" to keep up with the vehicle. Simultaneously, as Deputy Slate struck the suspect, Deputy Labayna feared the suspect was going to seriously injure or kill his partner by running him over, so Deputy Labayna fired four rounds from his duty .45 caliber semiautomatic handgun at the suspect, missing him and the vehicle.

When the rounds were fired, either the suspect let go of Deputy Slate or Deputy Slate was able to pull free. Deputy Slate then fell face down onto the concrete street striking the right side of his forehead. Simultaneously, he rolled his body away from the moving vehicle as it continued southbound on Mansfield Avenue to westbound Romaine Street, out of view. Deputy Labayna ran to check on Deputy Slate just as he (Deputy Slate) stood up in the street.

Deputy Slate then put out "10-33" (emergent) radio traffic advising of the shooting and the fleeing suspect vehicle information. Because the traffic stop occurred in the City of Los Angeles, the Los Angeles Police Department (LAPD) was notified and they responded to assist. Also, Deputy Slate requested rescue personnel due to his head injury. A command post was set up by West Hollywood Station personnel, and an active search for the named suspect was ongoing at the time of the Internal Affairs Bureau (IAB) response. Refer to the Incident Report by Deputies Clifford Anger and Nikolai Vavakin (***Exhibit A***), and a supplemental report by Deputy Ramon Alvarez regarding witnesses (***Exhibit F***) and security video (***Exhibit M-c***).

Deputy Slate was treated at the Olympia Medical Center for an abrasion to the right side of his forehead, a sprained right wrist with an abrasion, and complaint of pain to his right elbow and right ribs. It was later learned that Deputy Slate had sustained a fractured right wrist. He returned back to full duty work status on May 13, 2009. Refer to Deputy Slate's supplemental report (***Exhibit B***) and photographs of his injuries (***Exhibit C***).

At West Hollywood Sheriff's Station, IAB Sergeants Dinah Grote and Laura Haynes retrieved Deputy Labayna's weapon from his holster. The magazine and live rounds were counted. The handgun, magazine, and live rounds were taken as evidence, and later submitted to the Scientific Services Bureau's Firearms Section under Lab Receipt #K080271. Refer to the Firearms test fire results listed as ***Exhibit J.***

After further investigation by West Hollywood Station detectives and later in the afternoon of March 19, 2009, the suspect's vehicle was located, along with Deputy Slate's recovered flashlight. Refer to supplemental reports by Deputy [redacted] and Scientific Services Bureau Investigators David Alonso and Christine Pinto (***Exhibits P, Q,*** *and* ***R***).

With the assistance of the Major Crimes Bureau's Fugitive Task Force, Suspect Bird was located and arrested later at night on March 19, 2009. Refer to Deputy [redacted] supplemental report (***Exhibit O***). Suspect Bird was transported to the West Hollywood Sheriff's Station and booked for attempt murder on a peace officer (***Exhibit T***).

INVOLVED PERSONNEL:
SLATE, Randall B.
Deputy Sheriff, Employee #[redacted]
Field Operations - Region II
West Hollywood Station - Patrol Deputy, [redacted]

WORK HISTORY:

Date of Employment:	06-04-1991
Date assigned to Patrol:	[redacted]
Completed Patrol Training:	
Prior Shooting Incident(s):	1
Prior Founded Force Incident(s):	[redacted]

LABAYNA, Eduardo Y.
Deputy Sheriff, Employee #[redacted]
Field Operations - Region II
West Hollywood Station - Patrol Deputy, [redacted]

WORK HISTORY:

Date of Employment:	01-21-2001
Date assigned to Patrol:	[redacted]
Completed Patrol Training:	
Prior Shooting Incident(s):	1
Prior Founded Force Incident(s):	[redacted]

SUSPECT INFORMATION:
BIRD, Stuart Rutherford, MW/54, DOB: 07-27-1954, 6'00", 200 lbs. He was later arrested for attempt murder on a peace officer (664/187 P.C.) and for a $30,000 arrest warrant [redacted] Refer to his booking record, ***Exhibit T***.

Booking #1843669, CII #[redacted] CCHRS #[redacted] FBI #[redacted]

A check of the CCHRS (Consolidated Criminal History Reporting System) [redacted] Refer to the CCHRS/CII printouts included under the ***Miscellaneous Documents*** section.

EMPLOYEE WITNESS:
None

CIVILIAN WITNESSES:
[redacted] MH/28, DOB: [redacted] Primary Phone #[redacted]

[redacted] MW/42, DOB: [redacted] Primary Phone #[redacted]

INJURIES:
Initially, Deputy Slate was treated for an abrasion to his right wrist, a contusion on the right side of his forehead, and complaint of pain to his right ribs and elbow. It was later discovered that he had sustained a fractured right wrist. Refer to photos taken of his injured right wrist and forehead, ***Exhibit C***.

Suspect Bird sustained a contusion to his upper chest area. Refer to photos taken of his injured chest area, ***Exhibit S***.

> **IAB NOTE:** After his arrest, Suspect Bird was transported by West Hollywood Station personnel for an "okay to book" and then transported to the Inmate Reception Center where he was medically screened by nursing staff. For further, refer to the "Inmate Medical Documentation" report, ***Exhibit X***. West Hollywood Station jail could not locate Suspect Bird's medical clearance/okay to book paperwork. Medical Services Bureau was contacted for the missing documents. They could not locate them.

PHYSICAL EVIDENCE:

After the shooting, four expended .45 caliber shell casings were located on Mansfield Avenue, south of Santa Monica Boulevard, by West Hollywood Station personnel and personnel from the Scientific Services Bureau. Three casings were located on the west sidewalk and one in the street, just north of 1041 Mansfield Avenue. The evidence was marked as "1 thru 4" and photographed by Forensic Identification Specialist II David Alonso. Refer to Forensic Identification Specialist II Alonso's report and photographs (***Exhibit G***), and the Scientific Services Bureau report and scene diagram by Forensic Identification Specialist II Martin Mutuc (***Exhibit H***). See Deputy Nikolai Vavakin's supplemental report regarding the collection of the shell casings (***Exhibit I***).

Later in the day on March 19, 2009, the suspect's vehicle was located and impounded at West Hollywood Station. Refer to the CHP 180 (***Exhibit P***). Forensic Identification Specialist II David Alonso responded and photographed the suspect's vehicle. Refer to his report and photographs (***Exhibit Q***). Senior Criminalist Christine Pinto also responded and collected a black metal flashlight with "SLATE [redacted] engraved on it. Refer to her supplemental report (***Exhibit R***).

A security video from Hollywood Tow depicts two separate cameras/angles. Both angles show the suspect vehicle as it traveled southbound on Mansfield Avenue at the approximate time of the shooting (***Exhibit N***).

INVESTIGATORS' OBSERVATIONS:

During a walk-through of the scene, it was determined the traffic stop took place at the west curb line on Mansfield Avenue, just south of Santa Monica Boulevard. Adjacent to the traffic stop on both the east and west sides of the street facing southbound were closed businesses with empty parking lots. Just south of the traffic stop on the west side of the street was an east/westbound alleyway behind the Santa Monica Boulevard businesses.

Looking southbound on Mansfield Avenue on both the east and west sides of the street, all the way to Romaine Street, were closed businesses, excluding "Hollywood Tow," which is located on the southwest corner of Mansfield Avenue and Romaine Street. The only physical evidence located at the scene was four shell casings. Three shell casings were located on the west sidewalk, and one shell casing was located in the street two feet east of the west curb line. Refer to the evidence list, crime scene sketch and photographs of shell casings (***Exhibits G, H** and **I***). There were no bullet strikes or damage located on any of the area buildings or property.

Upon locating the suspect vehicle, Forensic Identification Specialist II David Alonso did not locate any damage consistent with bullet strikes. However, he did note the rear bumper was cracked, so he went back to the location of the shooting and reinspected the area for possible additional evidence and found none. Refer to his report listed as ***Exhibit Q***. Also, the suspect, when interviewed, stated that although he heard the gunshots, he did not

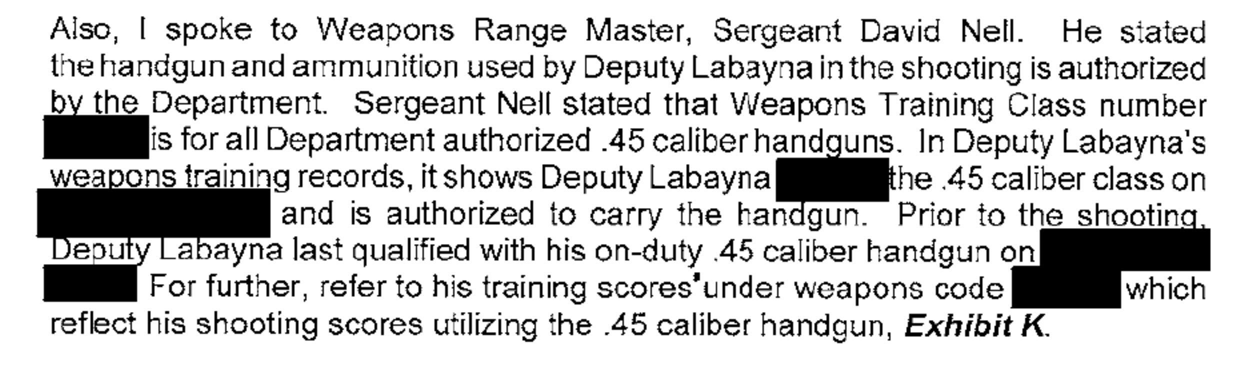
believe his vehicle was struck by gunfire. Refer to Suspect Bird's verbatim statements under the ***Transcriptions*** section of the casebook.

> **IAB NOTE:** The location of the expended shell casings is not always a reliable indicator of a shooter's position. Many variables should be considered which include the firearm, the ammunition caliber and type, extractor location on the firearm, and the method and geometry of how the shooter is holding the weapon. After a shooting incident other factors need to be considered such as surface characteristics or composition of the ground or floor, and the slope of that surface, are important variables, as well as characteristics of any non-horizontal surfaces like cartridge cases bouncing off surrounding objects (walls, etc.).

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy Eduardo Labayna carried his duty firearm, a 4 1/4" Smith & Wesson, .45 caliber, semiautomatic, stainless steel handgun, serial #VJJ[redacted] with "Winchester Ranger T-Series" brand ammunition. Deputy Labayna carried his weapon with eight rounds in the magazine and one in the chamber. During the incident, he fired four rounds. Following the shooting, he had four live rounds in his magazine and one in the chamber. The ammunition did not appear to be modified in any way. Deputy Labayna's expended bullets were not located or accounted for. Refer to the Scientific Services Bureau examination of Deputy Labayna's weapon and ammunition under Lab Receipt #K080271 (***Exhibit J***).

> **IAB NOTE:** On October 19, 2009, I spoke to Firearms Specialist, Marco Iezza, who stated Deputy Labayna's handgun was examined, tested, and found to be functional. He stated the weapon and ammunition did not appear to be modified in any way and the trigger pull was within normal range.



> Also, I spoke to Weapons Range Master, Sergeant David Nell. He stated the handgun and ammunition used by Deputy Labayna in the shooting is authorized by the Department. Sergeant Nell stated that Weapons Training Class number [redacted] is for all Department authorized .45 caliber handguns. In Deputy Labayna's weapons training records, it shows Deputy Labayna [redacted] the .45 caliber class on [redacted] and is authorized to carry the handgun. Prior to the shooting, Deputy Labayna last qualified with his on-duty .45 caliber handgun on [redacted] For further, refer to his training scores under weapons code [redacted] which reflect his shooting scores utilizing the .45 caliber handgun, ***Exhibit K***.

Deputy Randall Slate struck Suspect Bird approximately one to three times in the chest area with his flashlight, which was later recovered from inside the suspect's vehicle. For further, refer **to *Exhibit R***.

WEAPONS USED BY THE SUSPECT:

Suspect Bird grabbed onto Deputy Slate's right arm and pulled him while driving away in his vehicle.

PROPERTY DAMAGE:

There was no property damage located on any of the adjacent business buildings or area vehicles.

> **IAB NOTE:** On two occasions, Sergeant Grote telephoned and left voice messages with [redacted] the registered owner of the suspect vehicle, regarding the damaged bumper. She did not respond to the messages.

CRIMINAL INVESTIGATION CHARGES:

Investigator's Name:	West Hollywood Station Detective Gregory Boagni #[redacted]
Court:	Beverly Hills
Charges Filed:	245© PC and 69 PC
DA Case Number:	SA070682

On March 30, 2009, Deputy District Attorney, Roberto Rubalcava, filed the above charges against Suspect Slate. For further, refer to Detective Boagni's three supplemental reports (***Exhibit M***, **a-c**), Case Closure Report (***Exhibit V***), and the DA's filing Complaint (***Exhibit W***).

On July 8, 2009, Suspect Bird was held to answer on the above charges. His next scheduled court date is November 19, 2009.

LIGHTING AND WEATHER CONDITIONS:

It was clear and dark outside. There was a fixed overhead light post on the west sidewalk of Mansfield Avenue, slightly south of Santa Monica Boulevard, and two building lights adjacent to the patrol vehicle. South of the patrol vehicle along the west sidewalk, were another three fixed overhead light posts.

INVOLVED EMPLOYEE'S STATEMENTS:

The following involved deputies were interviewed during the investigation. Precise wording may be obtained by reviewing the digitally audio recorded interview and/or the verbatim transcripts listed under the ***Transcriptions*** *section of the casebook.*

Deputy Randall Slate was interviewed by IAB Sergeants Dinah Grote and Laura Haynes on March 19, 2009, at 0747 hours, at the West Hollywood Sheriff's Station. He declined representation during the interview. On April 16, 2009, at 1112 hours, he was additionally interviewed by Sergeant Grote via telephone. Again, he declined representation during the interview. Deputy Slate explained that he and his partner stopped the suspect to investigate why he had no license plates on his car. During his contact with the suspect (and sole occupant), he learned his identity and that he had a warrant for his arrest. When he asked the suspect to step out of the car to effect an arrest, the suspect grabbed Deputy Slate's right arm and pulled it inside the vehicle. The suspect started the car and drove away while holding Deputy Slate's arm. The suspect let go when Deputy Labayna shot at the suspect. Deputy Slate said he did not reach into the car to grab either the steering wheel or ignition key. For further, refer to Deputy Slate's verbatim transcripts, his supplemental report (***Exhibit B***), photographs of his injuries (***Exhibit C***), and his emergent radio transmissions (***Exhibit L***).

Deputy Eduardo Labayna was interviewed by IAB Sergeants Dinah Grote and Laura Haynes on April 6, 2009, at 1020 hours, at the IAB Commerce office. He was represented by Deborah Schild from Green & Shinee. Deputy Labayna explained that he and his partner stopped the suspect to investigate why he had no license plates on his car. During Deputy Slate's contact with the suspect (and sole occupant), he learned his identity and that he had a warrant for his arrest. When Deputy Slate asked the suspect to step out of the car to effect an arrest, the suspect started the car and drove away while holding Deputy Slate's arm. By this time, Deputy Labayna had moved beside Deputy Slate to assist in the arrest. But as the car drove away, Deputy Labayna moved to a position behind the car and fired four bullets toward the driver's seat because Deputy Slate was being dragged down the street. The suspect let go when Deputy Labayna shot at the suspect. For further, refer to Deputy Labayna's verbatim transcripts, his supplemental report (***Exhibit D***), and a diagram of the scene (***Exhibit E***). Also, refer to Deputy Labayna's Weapons Training Records (***Exhibit K***).

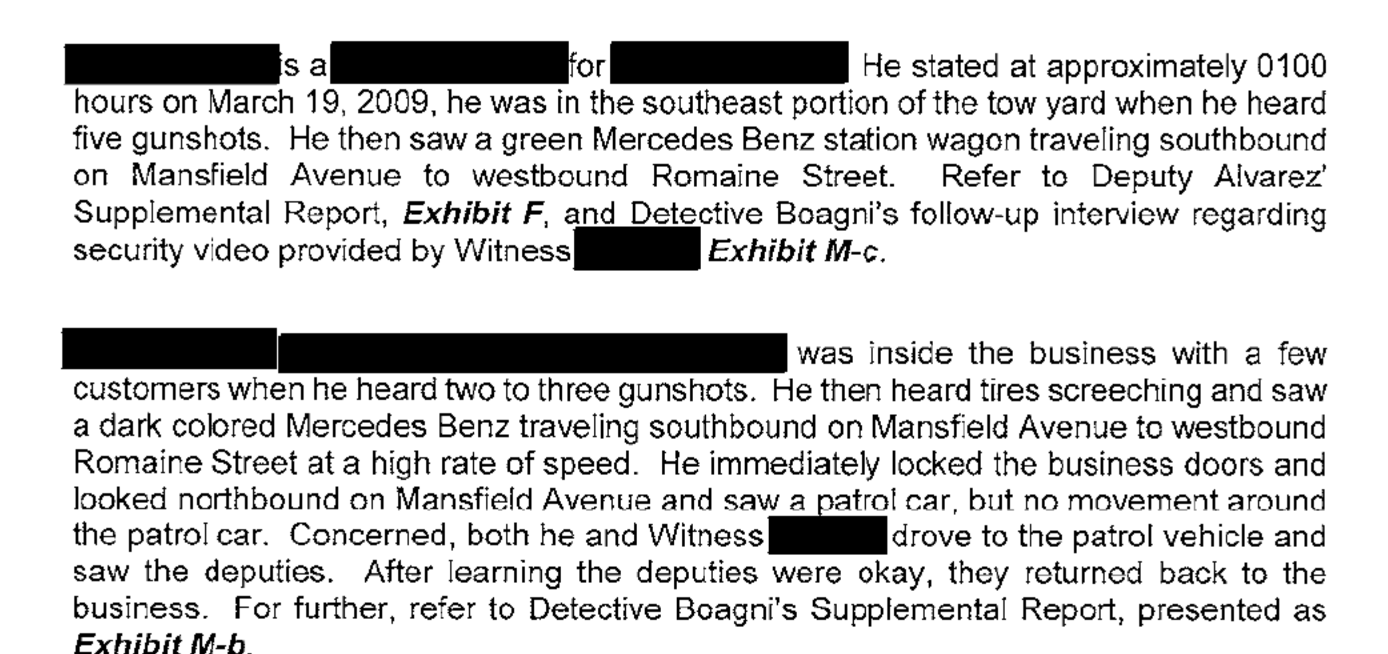
> **IAB NOTE:** Deputy Labayna stated in approximately April of 1993, he had been involved in a previous on-duty non-hit shooting approximately when he worked for the [redacted]

EMPLOYEE WITNESS STATEMENTS:

None

CIVILIAN WITNESSES STATEMENTS:

The civilian following witnesses were identified and interviewed during the investigation by West Hollywood Station personnel.



[redacted]s a [redacted]for [redacted] He stated at approximately 0100 hours on March 19, 2009, he was in the southeast portion of the tow yard when he heard five gunshots. He then saw a green Mercedes Benz station wagon traveling southbound on Mansfield Avenue to westbound Romaine Street. Refer to Deputy Alvarez' Supplemental Report, ***Exhibit F***, and Detective Boagni's follow-up interview regarding security video provided by Witness [redacted] ***Exhibit M-c***.

[redacted] was inside the business with a few customers when he heard two to three gunshots. He then heard tires screeching and saw a dark colored Mercedes Benz traveling southbound on Mansfield Avenue to westbound Romaine Street at a high rate of speed. He immediately locked the business doors and looked northbound on Mansfield Avenue and saw a patrol car, but no movement around the patrol car. Concerned, both he and Witness [redacted] drove to the patrol vehicle and saw the deputies. After learning the deputies were okay, they returned back to the business. For further, refer to Detective Boagni's Supplemental Report, presented as ***Exhibit M-b***.

SUSPECT STATEMENT

Suspect Stuart Bird was interviewed on March 19, 2009, at 2145 hours by West Hollywood Station, Detective Kevin Acebedo. Again, he was later interviewed by Detective Acebedo regarding his injured chest. Precise wording of the statements may be obtained by reviewing the digitally audio taped interviews and/or the verbatim transcripts listed under the ***Transcriptions*** *section or the CD containing audio-taped interviews of Suspect Bird* ***(Exhibit U)****.*

Refer to Detective Acebedo's Supplemental Report for a summary of his interview and photographs of Suspect Bird's injured chest (***Exhibit S***). He denied grabbing Deputy Slate's arm and said Deputy Slate reached inside his car.

MISCELLANEOUS SECTION:

After the shooting incident, an independent news reported videotaped the crime scene. Refer to a copy of the DVD located in the ***Miscellaneous Documents*** section.